

HOUSE BILL NO. 454

INTRODUCED BY D. BARRETT

A BILL FOR AN ACT ENTITLED: "AN ACT PROHIBITING THE MANUFACTURE, DISTRIBUTION, AND SALE OF CERTAIN PRODUCTS THAT CONTAIN BISPHENOL A; DEFINING TERMS; REQUIRING NOTIFICATION; REQUIRING A MANUFACTURER TO RECALL AND REIMBURSE RETAILERS OR PURCHASERS FOR PROHIBITED PRODUCTS SOLD OR DISTRIBUTED ON OR AFTER JULY 1, 2010; ESTABLISHING CIVIL PENALTIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], the following definitions apply:

(1) "Department" means the department of public health and human services as provided for in 2-15-2201.

(2) "Manufacturer" means a person, firm, association, partnership, corporation, governmental entity, organization, or joint venture that produces products that contain bisphenol A.

(3) "Person" means any individual, corporation, partnership, cooperative, association, firm, sole proprietorship, governmental agency, or other entity.

(4) "Retailer" means a person that sells products that contain bisphenol A directly to consumers.

(5) "Wholesaler" means a person that is engaged in the distribution and wholesale selling of products that contain bisphenol A.

NEW SECTION. **Section 2. Prohibition on certain products that contain bisphenol A.** Beginning July 1, 2010, a manufacturer, wholesaler, or retailer may not manufacture, knowingly sell, offer for sale, distribute for sale, or distribute for use any:

(1) bottle, cup, or other container that contains bisphenol A if that container is designed or intended to be filled with any liquid, food, or beverage primarily for consumption from that container by children 3 years of age or younger and is sold or distributed without containing any liquid, food, or beverage;

(2) liquid, food, or beverage in a can, jar, or other container containing bisphenol A at a level of 0.5 parts

per billion if the liquid, food, or beverage is designed or intended primarily for consumption by children 3 years of age or younger; or

(3) sports water bottle that contains bisphenol A.

NEW SECTION. Section 3. Notification -- recall and reimbursement. (1) A manufacturer of products that are prohibited pursuant to [section 2] shall notify persons that sell the manufacturer's products in this state of the prohibitions in [section 2] not less than 90 days before July 1, 2010.

(2) A manufacturer that produces, sells, or distributes a product prohibited from manufacture, sale, or distribution under [section 2] on or after July 1, 2010, shall recall the product and reimburse the retailer or any other purchaser for the product.

NEW SECTION. Section 4. Civil penalties. (1) A manufacturer, wholesaler, or retailer who knowingly violates the provisions of [sections 1 through 4] is subject to a civil penalty not to exceed \$5,000 for each violation in the case of a first offense. In the case of repeat violations, the civil penalty may not exceed \$10,000 for each repeat violation.

(2) Penalties provided for in subsection (1) are recoverable in an action brought by the department.

(3) Penalties collected under this section must be deposited in the general fund.

(4) An action under this section does not bar enforcement by injunction or other appropriate civil or administrative remedies.

NEW SECTION. Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 50, and the provisions of Title 50 apply to [sections 1 through 4].

NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval.

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